



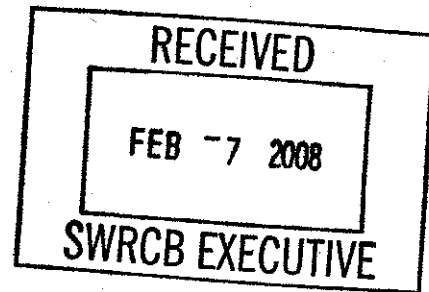
# Delta Diablo Sanitation District

2/19/08 BdWrkshp Item 10  
Water Quality Enf. Policy  
Deadline: 2/7/08 by 12 p.m.

OFFICE AND TREATMENT PLANT: 2500 PITTSBURG-ANTIOCH HIGHWAY, ANTIOCH, CA 94509-1373  
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February 6, 2008

FEDERAL EXPRESS MAIL NO. 8596 1372 7820



Ms. Tam M. Doduc, Chair & Members  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814

Attn: Ms. Jeanine Townsend, Clerk to the Board

SUBJECT: WATER QUALITY ENFORCEMENT WORKSHOP – FEBRUARY 19, 2008

Dear Chair Doduc & Members of the Board:

Thank you for the opportunity to comment on the State Water Resource Control Board's (SWRCB) Draft Water Quality Enforcement Policy (WQEP). In general, the District believes that the draft WQEP offers an improved approach to setting enforcement priorities and will add clarity regarding the appropriate enforcement response to various types of violations.

One key area of concern, however, is the proposed redraft of the Policy provisions governing the use of Supplemental Environmental Projects (SEPs). The January 8, 2008 revised draft contains several changes that may discourage the implementation of SEPs, thereby reducing their usefulness as a tool for providing local environmental benefits. Of concern are the following changes:

- The limitation of SEPs for other than mandatory minimum penalties to no more than 25% of the total Administrative Civil Liability amount unless there are "exceptional circumstances."
- The authorization of Regional Water Boards to allow less than dollar for dollar credit for SEPs.
- Elimination of SEPs for education and outreach programs.
- The definition of the requisite nexus between a SEP and a violation to exist only if "the project remediates or reduces the probable overall environmental or public health risks to which the violation at issue contributes."

Although the District does everything in its power to avoid mandatory minimum penalties (MMPs) and other permit violations, the District has utilized SEPs in the past and found them to provide valuable environmental benefit to the local community.

In 2001, the District funded an SEP to help build a regional Household Hazardous Waste (HHW) collection facility on District property. To date, this facility has recycled and properly disposed of over two thousand tons of HHW, diverting large amounts of contaminants from waters of the State. The facility continues to provide a valuable resource to the community.

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In addition, in 2006, the District was assessed an MMP for what staff considered to be a false positive Cyanide result. Rather than fight the MMP, the District chose to perform an SEP and plant trees at a local park that is watered with the District's recycled water.

With the new nexus requirement in the proposed WQEP, these two projects would not have had the benefit of funds from the SEPs. Additionally, as a public agency, the District believes that SEPs provide an important mechanism for keeping local ratepayer dollars within the community. Because SEPs ensure that the public that must pay the fine receives some of the benefit, our Board of Directors is more willing to settle enforcement actions without a hearing before the Regional Water Board.

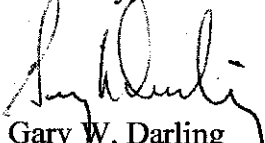
The District has previously generated, and currently maintains, a short listing of potential SEPs that could be accomplished in the event the District were assessed another MMP or ACL in the future. Having a project list reviewed and commented on by local Water Board staff ahead of time helps to speed the approval process and completion of SEPs. The District hopes to keep this list viable through the regulatory update process.

Since the passage of the Clean Water Act, publically owned treatment works (POTWs) such as the District have continually and consistently improved performance. As illustrated in recent Total Maximum Daily Load (TMDL) development, POTWs often contribute a very small percentage of the pollutant load to a water body. Very often violations are relatively minor and adverse water quality impacts are difficult, if not impossible to quantify, making the nexus issue even more complicated.

To a large extent, POTWs cannot reduce pollutant loads to waters of the State without conducting pollution prevention activities or adding very expensive and questionably beneficial treatment processes. Pollution prevention, particularly in the residential arena, is key to future decreases in pollutant loading, but cannot be accomplished without extensive public education and outreach. Allowing SEPs for public education and outreach will go a long ways toward meeting pollution prevention goals.

The changes proposed in the draft WQEP greatly limit the usefulness of SEPs as a tool for providing local environmental benefits. The District believes that our community and the environment have benefited from SEPs and asks for your consideration of these comments in your action to update the WQEP. If you have any questions, please feel free to contact me at (925) 756-1920.

Sincerely,



Gary W. Darling  
General Manager

AWR/DFL:dj

cc: District File CORP.15.03-CORRES-38  
Chron File